

HOUSE BILL 3099

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 50 and Title 71, relative to drug screenings of  
recipients of certain assistance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 3, Part 1, is amended by  
adding the following as a new section to be appropriately designated:

71-3-167.

(a)

(1)

(A) The department shall require a suspicion-based urine  
drug test program consistent with title 50, chapter 9, to screen  
each individual who applies for or who receives Temporary  
Assistance for Needy Families (TANF). The cost of drug testing is  
the responsibility of the individual tested.

(B) The department of human services shall develop a  
program to screen each applicant or recipient who is otherwise  
eligible for temporary assistance for needy families benefits under  
this part, and then test, using a urine dipstick five-panel test, each  
one who the department has reasonable cause to believe, based  
on the screening, engages in illegal use of controlled substances.

(2) An individual subject to the requirements of this section  
includes any parent or caretaker relative who is included in the cash  
assistance group, including an individual who may be exempt from work

activity requirements due to the age of the youngest child or who may be exempt from work activity requirements under § 71-3-154.

(3) An individual who tests positive for controlled substances as a result of a drug test required under this section is ineligible to receive TANF benefits for one (1) year after the date of the positive drug test unless the individual meets the requirements of subdivision (b)(10).

(b) The department shall:

(1) Provide notice of suspicion-based drug testing to each individual at the time of application. The notice must advise the individual that drug testing will be conducted as a condition for receiving TANF benefits and that the individual must bear the cost of testing. If the individual tests negative for controlled substances, the department shall increase the amount of the TANF benefit by the amount paid by the individual for the drug testing. The individual shall be advised that the required drug testing may be avoided if the individual does not apply for TANF benefits. Dependent children under the age of eighteen (18) are exempt from the drug-testing requirement;

(2) Require that for two-parent families, both parents must comply with the suspicion-based drug-testing requirement;

(3) Require that any teen parent who is not required to live with a parent, legal guardian, or other adult caretaker relative in accordance with § 71-3-154(f) must comply with the suspicion-based drug-testing requirement;

(4) Advise each individual to be tested, before the test is conducted, that the individual she may, but is not required to, advise the agent administering the test of any prescription or over-the-counter medication the individual is taking;

(5) Require each individual to be tested to sign a written acknowledgment that the individual has received and understood the notice and advice provided under subdivisions (b)(1) and (4);

(6) Assure each individual being tested a reasonable degree of dignity while producing and submitting a sample for drug testing, consistent with the state's need to ensure the reliability of the sample;

(7) Specify circumstances under which an individual who fails a drug test has the right to take one (1) or more additional tests;

(8) Inform an individual who tests positive for a controlled substance and is deemed ineligible for TANF benefits that the individual may reapply for those benefits one (1) year after the date of the positive drug test unless the individual meets the requirements of subdivision (10). If the individual tests positive again, the individual is ineligible to receive TANF benefits for three (3) years after the date of the second positive drug test unless the individual meets the requirements of subdivision (10); and

(9) Provide any individual who tests positive with a list of licensed substance abuse treatment providers available in the area in which the individual resides that meet the requirements of title 33, chapter 2, part 4, and are licensed by the department of mental health. Neither the department nor the state is responsible for providing or paying for substance abuse treatment as part of the screening conducted under this section.

(c) If a parent is deemed ineligible for TANF benefits as a result of failing a drug test conducted under this section:

(1) The dependent child's eligibility for TANF benefits is not affected;

(2) An appropriate protective payee shall be designated to receive benefits on behalf of the child; or

(3) The parent may choose to designate another individual to receive benefits for the parent's minor child. The designated individual must be an immediate family member or, if an immediate family member is not available or the family member declines the option, another individual, approved by the department, may be designated. The designated individual must also undergo drug testing before being approved to receive benefits on behalf of the child. If the designated individual tests positive for controlled substances, he or she is ineligible to receive benefits on behalf of the child.

(d) The department shall adopt rules to implement this section in accordance with the provisions of title 4, chapter 5.

(e) An individual who tests positive under this section and is denied TANF benefits as a result may reapply for those benefits after six (6) months if the individual can document the successful completion of a substance abuse treatment program offered by a provider that meets the requirements of title 33, chapter 2, part 4, and is licensed by the department of mental health. An individual who has met the requirements of this subsection and reapplies for TANF benefits must also pass an initial drug test and meet the requirements of subsection (a). Any drug test conducted while the individual is undergoing substance abuse treatment must meet the requirements of subsection (a). The cost of any drug testing and substance abuse treatment provided under this

subsection shall be the responsibility of the individual being tested and receiving treatment. An individual who fails the drug test required under subdivision (b)(1) may reapply for benefits under this subsection only once.

SECTION 2. Tennessee Code Annotated, Section 71-3-154(a), is amended by deleting the language "A family shall be eligible for temporary assistance" and by substituting instead the language "Subject to the requirements of § 71-3-167, a family shall be eligible for temporary assistance".

SECTION 3. This act shall take effect July 1, 2012, the public welfare requiring it.